

STATEMENT OF PURPOSE

RS20899

The purpose of this legislation is to amend the offenses listed in Idaho's current "felony murder rule" and to add the crime of unlawful discharge of a firearm. Idaho Code 18-4003(d) is commonly called the "felony murder rule." This section now states that any murder committed in the perpetration of, or attempt to perpetrate the following felonies is first-degree murder; aggravated battery on a child under twelve (12) years of age, arson, rape, robbery, burglary, kidnapping or mayhem, or an act of terrorism or the use of a weapon of mass destruction. The proposed change would add murders committed during "drive-by-shootings" to the list.

Generally, in order to prove first-degree murder, the state must prove beyond a reasonable doubt that the killing of a human being occurred with malice aforethought, which is the specific intent to kill. Under the felony murder rule, the fact the homicide occurred during the commission of one of the listed felonies supplies the malice element for a murder conviction. The intent to commit the felony substitutes for the malice aforethought requirement.

The crime of unlawful discharge of a firearm, or as it is commonly called, "drive-by-shooting" is extremely dangerous. Any person who intentionally and unlawfully shoots a firearm into an inhabited dwelling house or occupied motor vehicle and kills another person must be held to the highest level of accountability for that murder. As it now stands, a defendant who kills a person during a drive-by-shooting can argue that he should not be convicted of murder because he did not have the specific intent to kill.

FISCAL NOTE

The fiscal impact is difficult to determine with certainty, as it will depend on the increased number of offenders who are convicted of a first-degree murder, if any, under this statute. The potential impact to the general fund would be equal to the cost of imprisoning the additional number of offenders charged, convicted, and sentenced as a result of this amendment.

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